

Notice of Allowability

Application No.

09/982,510

Examiner

Joseph T. Phan

Applicant(s)

THOMPSON ET AL.

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant interview w/examiner on June 27, 2007 initiating examiner's amendment.
2. ☒ The allowed claim(s) is/are 8-11, 15, 17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

1. **Applicant's after-final amendment filed May 04, 2007 has been entered.**
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney of record, H. Dale Langley, Jr. on June 27, 2007.

After review of the prior arts of record during the interview, the application has been amended by the applicant as follows:

Claim 8 line 21 after 'communication'

Add --; and a comparator for determining whether a time differential between receipts by the client device of every other sequential one of the data payloads exceeds a time constant indicative of an effective data receipt rate of the client device--

Claim 17 line 12 after 'to a'

Add --time of a--

Claim 17 line 13 after 'exceeds the'

Add --time of the—

Allowable Subject Matter

3. **Claims 8-11, 15, and 17 allowed, Renumbered 1-6 respectively.** Claims 1-7, 12-14, 16, and 18-20 were cancelled by the applicant. Examiner's amendment is necessary to overcome the prior arts of record and resolve 112 2nd paragraph issues.

4. The following is an examiner's statement of reasons for allowance:

Regarding claims 8 and 10, the prior arts of record, does not teach, among other features, a comparator for determining whether a time differential between receipts by the client device of every other sequential one of the data payloads exceeds a time constant indicative of an effective data receipt rate of the client device.

Regarding claim 15, the prior arts of record, does not teach, among other features, a bundling rate determiner at the client device, wherein an outstanding number of bytes not yet received by the client device is divided by an effective data receipt rate of the client device, and the server computer adjusts a send rate of the server computer based on a multiple of the result of the division.

Regarding claim 17, the prior arts of record, does not teach, among other features, determining the time differential to a time of a multiple of a server transmit rate and comparing the time differential to a time of a multiple of a server transmit rate; wherein if the time differential exceeds the time of the multiple then a payload loss is assumed occurring on a wireless portion of a network.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTP
June 27, 2007



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600